REMARKS

Claims 1, 2, 7, 9, 11-13, and 39-41 remain in the present application. Claims 8 and 10 have been canceled without prejudice in order to expedite the allowance of the present application. Claims 1, 2, 7, 9, and 39-41 are in independent form. These claims have amended without prejudice in order to clarify the present invention and place the application in condition for allowance or at least in better condition for appeal.

Specifically referring to the outstanding Office Action, claims 1, 2, 7-13, and 39-41 stand rejected under 35 U.S.C. §112, first paragraph, as containing subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. According to the Office Action, the specification discloses only seven peptides from dog IgECH3/CH4 domains selected from the group consisting of SEQ ID NOS: 1-7 and seven peptides from human IgECH3/CH4 domains consisting of SEQ ID NOS: 8-14 for ascaris desensitization and ameliorating IgE-mediated skin wheal reaction. Further the Office Action holds "with the exception of the specific peptides mentioned above, there is insufficient written description about the structure of any "antigenic peptide" and any "fragment thereof" of CH3 domain of any IgE, much less about function because the term "comprising" is open ended.

In response to the rejection, Applicants have amended, without prejudice, the pending independent claims to be specifically limited towards an isolated antigenic peptide corresponding to SEQ ID NO: 4. As a result of the amendment to these claims, the written description requirement set forth under 35 U.S.C. §112, first paragraph, has been overcome. Reconsideration of the rejection is respectfully requested.

Pending claims 1, 2, 7, 8, 10, 12, 13, and 39-41 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,629,415. Additionally, claims 7, 9, 12, and 13 are also rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No.

5,653,980. The Office Action holds that both U.S. patents anticipate the corresponding claims because the pending claims utilize the term "comprising" or "has" and therefore these claims are open ended. Accordingly, the Office Action holds that these terms expand the claimed antigenic peptide to include additional amino acid residues at either or both ends to read on the reference peptides. In accordance with suggestions set forth in the outstanding Office Action, Applicants have amended without prejudice the presently pending independent claims to be directed towards an antigenic peptide corresponding to SEQ ID NO: 4. The pending independent claims are no longer open ended and as a result of the amendments, the presently pending claims are patentably distinct over U.S. Patent Nos. 5,629,415 and 5,653,980. Reconsideration of the rejection is respectfully requested.

Presently pending claims 9-13 and 41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,629,415 in view of Harlow, et al. Additionally, claims 9 and 11 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,653,980 in view of Harlow, et al. Finally, claim 41 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,653,980 in view of U.S. Patent No. 5,629,415.

As discussed above, the presently pending claims are patentable over both U.S. Patent Nos. 5,629,415 and 5,653,980 alone, or in combination therewith, the rejections based on 35 U.S.C. §103(a) have been rendered moot. According to the Office Action, "it is the Examiner's position that the amended claims are not limiting to the specific antigen peptide of SEQ ID NO: 4..." (see page 9, paragraph 5 and page 11, paragraph 5). According to the Office Action, since the claimed peptide is open ended, it expands the claimed peptide to include additional undisclosed amino acid residues at either or both ends to include the referenced peptide. The Office Action suggests, however, if the claims are directed towards the specific SEQ ID NO: 4, then the presently pending claim would be patentably distinct over the cited prior art references. As a result of the amendments made to the claims, without prejudice, rejections based on 35 U.S.C.

§103(a) would be rendered moot. Therefore, reconsideration of the rejections under 35 U.S.C. §103(a) is respectfully requested.

Claims 1, 2, and 39 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. This rejection is in response to the previously filed amendment dated October 30, 2002. In response thereto , Applicants have amended, without prejudice, the claims by removing the recitation "comprising" and the statement and/or limitation of "consisting of." Again, the claims have been amended towards an isolated antigenic peptide corresponding to SEQ ID NO:4. As a result of the amendments made hereto, reconsideration of the rejection is respectfully requested.

The remaining dependent claims not discussed above are ultimately dependent upon at least one of the independent claims discussed above. No prior art reference makes up for the deficiencies of that reference as applied against the independent claims as no prior art reference discloses or suggests the invention as set forth in the claims as discussed in detail above.

It is respectfully submitted that the present amendment places the application in condition for allowance as it removes all remaining issues in dispute. Specifically, the amendment follows suggestions set forth in the Office Action, is made without prejudice, and clarifies the present invention. As a result, no remaining issues are in dispute. Since there is no prior art cited against any of these claims, it is respectfully submitted that all of the claims are in condition for allowance. It is also respectfully submitted that the present amendment places the application in condition for appeal. The claims have not been made broader in scope, thereby requiring no further searching nor raise any new issues. In fact, all claims now include limitations of previously pending claims and were therefore previously searched.

It is respectfully requested that the present amendment be entered in order to place the application in condition for allowance or at least in better condition for appeal.

The application is placed in condition for allowance as it addresses and resolves each and every issue that remains pending. The claims have also been amended to clearly distinguish them over the prior art. The application is made at least in better condition for appeal as the amendment removes any issues thereby simplifying the issues on appeal. That is, each and every rejection has been overcome. Hence, it is respectfully requested that the amendment be entered.

Applicants respectfully request to be contacted by telephone if any remaining issues exist.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,
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CERTIFICATE OF MAILING

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I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on March 10, 2003.

Angel Webb

VERSION SHOWING MARKED CHANGES

IN THE CLAIMS:

1. (Twice Amended) An isolated antigenic peptide corresponding to [comprising an amino acid sequence consisting of] SEQ ID NO: 4 that induces an anti-IgE immune response that does not cause anaphylaxis when administered to an animal.

2. (Twice Amended) An isolated antigenic fusion protein [comprising an amino acid sequence consisting of] corresponding to SEQ ID NO: 4 and a heterologous carrier protein that induces an anti-IgE immune response that does not cause anaphylaxis when administered to an animal.

7. (Twice Amended) A pharmaceutical composition for inducing an anti-IgE immune response that does not cause anaphylaxis comprising one or more antigenic peptides [consisting of an amino acid sequence of amino acid residues] of a CH3 domain of an IgE molecule [or a fragment thereof] wherein at least one antigenic peptide corresponding to SEQ ID NO: 4.

Please cancel claim 8.

9. (Twice Amended) A pharmaceutical composition for inducing an anti-IgE immune response that does not cause anaphylaxis comprising one or more antigenic fusion proteins [consisting of an amino acid sequence of amino acid residues] of a CH3 domain of an IgE molecule [or a fragment thereof]; and a heterologous carrier protein, wherein at least one antigenic fusion protein corresponds to SEQ ID NO: 4.

Please cancel claim 10.

39. (Twice Amended) An isolated antigenic peptide corresponding to [comprising an amino acid sequence consisting of] SEQ ID NO: 4 [or a fragment thereof,] that induces an anti-IgE immune response that does not cause anaphylaxis when administered to an animal.

40. (Twice Amended) An isolated antigenic fusion protein corresponding to [comprising an amino acid sequence of] SEQ ID NO: 4 [or a fragment thereof] and a heterologous carrier protein that induces an anti-IgE immune response that does not cause anaphylaxis when administered to an animal.